



REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT

AT KISUMU

ELC CASE NO. E028 OF 2021 (O.S)

**JULIUS ATIANG BUGO.....PLAINTIFF**

**VERSUS**

**JORIM ODHIAMBO ONGILI.....DEFENDANT**

**RULING**

Julius Atiang Bugo, hereinafter referred to as the Plaintiff has come to court against Joram Odhiambo Ongili claiming to have acquired Parcels of land known as Kisumu/Songhor/1287 and 1288 by way of adverse possession and seeks for determination of the following questions.

- 1. Is JORIM ODHIAMBO ONGILI registered as the proprietor of parcels of land known as KISUMU/SONGHOR/1287 and KISUMU/SONGHOR/1288?**
- 2. Has the Applicant JULIUS ATIANG BUGO and his family been in exclusive and uninterrupted possession of parcels of land known as KISUMU/SONGHOR/1287 and KISUMU/SONGHOR/1288 for more than twelve (12) years?**
- 3. Has the right of the registered proprietor, JORIM ODHAIMBO ONGILI in respect of the said parcels been extinguished and has the applicant/plaintiff acquired the same by way of adverse possession?**

The Plaintiff prays for:-

- a. A declaration that rights of JORIM ODHIAMBO ONGILI over the parcels of land known as KISUMU/SONGHOR/1287 and KISUMU/SONGHOR/1288 occupied by the Plaintiff/Applicant have been extinguished and the Plaintiff/Applicant has acquired the same by way of adverse possession and an Order directing the Land Registrar, Nyando, Muhoroni and Nyakach District to register the same in favour of the Plaintiff/Applicant as the proprietor.**
- b. The costs of these proceedings to be provided for.**

In the supporting affidavit, the plaintiff states that he purchased a portion of land parcel number KISUMU/SONGHOR/225 measuring 0.8 Ha from one MARGARET OWUONDO ONGILI (now deceased) who is the mother of the Defendant herein. That the land parcel No. KISUMU/SONGHOR/225 was later sub-divided and same gave rise to land parcel No. KISUMU/SONGHOR/790 which was to be registered in his names. That the Defendant/Respondent then declined to transfer to him land parcel NO. KISUMU/SONGHOR/790 but instead sub-divided the same into two parcels of land known as KISUMU/SONGHOR/1287 and 1288. That he has been living with his family on the said parcel of land since 1988 and he does not have any other parcel of land to settle.

When the matter came up for hearing, the plaintiff testified that he bought the suit land from the defendant but she refused to transfer. He entered the land in 1988 to date. Has planted sugar cane and maize on the land. The respondent did not attend court to testify, however in the replying affidavit, he states that the plaintiff vacated the land in 2010. Moreover, that he did not pay he whole purchase price.

I have considered the pleadings, the evidence on record and do find that the plaintiff has proved that he took possession of the suit property in 1998 and has been in possession to-date.

The plaintiff has proved on a balance of probabilities that he has acquired prescriptive rights on the suit property by way of adverse possession. I do grant prayers a thus:

- a. A declaration that rights of JORIM ODHIAMBO ONGILI over the parcels of land known as KISUMU/SONGHOR/1287**

**and KISUMU/SONGHOR/1288 occupied by the Plaintiff/Applicant have been extinguished and the Plaintiff/Applicant has acquired the same by way of adverse possession and an Order directing the Land Registrar, Nyando, Muhoroni and Nyakach District to register the same in favour of the Plaintiff/Applicant as the proprietor.**

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 23<sup>rd</sup> DAY OF MARCH, 2022**

**ANTONY OMBWAYO**

**JUDGE**

This Ruling has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic and in the light of the directions issued by his Lordship, the Chief Justice on 15<sup>th</sup> March 2020.